

109TH CONGRESS  
1ST SESSION

**S.** 977

To include claims for injuries and death due to exposure during certain time periods from fallout emitted during the Government's above-ground nuclear tests in Nevada that exposed individuals who lived in the downwind affected area in the State of Montana.

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IN THE SENATE OF THE UNITED STATES

Mr. BURNS introduced the following bill; which was read twice and referred to the Committee on

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**A BILL**

To include claims for injuries and death due to exposure during certain time periods from fallout emitted during the Government's above-ground nuclear tests in Nevada that exposed individuals who lived in the downwind affected area in the State of Montana.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Radiation Exposure  
5 Compensation Act Amendments of 2005".

6 **SEC. 2. FINDINGS; PURPOSE; APOLOGY.**

7 (a) FINDINGS.—Congress finds the following:

1           (1) Ninety-nine percent of the Iodine-131 (here-  
2           inafter referred to as “I-131”) in the atmosphere of  
3           the United States came from 90 tests in Nevada,  
4           mainly in the years 1952, 1953, 1955 and 1957. I-  
5           131 is a leading cause of thyroid cancer in America.  
6           The United States national average dosage per per-  
7           son is 2 rads.

8           (2) Of the 25 counties with the heaviest average  
9           dose of I-131, which is between 9 and 16 rads, 15  
10          counties (Meagher, Broadwater, Beaverhead, Jeffer-  
11          son, Powell, Judith Basin, Madison, Fergus, Gal-  
12          latin, Petroleum, Lewis and Clark, Blaine, Silver  
13          Bow, Chouteau and Deer Lodge) are in the State of  
14          Montana.

15          (3) The county with the highest per capita thy-  
16          roid dose of I-131 in the country is Meagher county  
17          in Montana with 16 rads, which is 800 percent high-  
18          er than the national average.

19          (4) Of the 56 counties in Montana, only Yellow-  
20          stone County has an I-131 exposure level near the  
21          national average. None of the counties in Montana  
22          have an I-131 exposure level below the national aver-  
23          age.

1           (5) As thyroid cancer takes 10 to 40 years to  
2       develop, radiation exposure in the late 1950s might  
3       not manifest in cancer until the late 1990s.

4           (6) While the national average for thyroid can-  
5       cer has remained steady over the past 30 years, the  
6       rate of reported thyroid cancer in Montana has in-  
7       creased steadily. In 1980, Montana had a rate of  
8       thyroid cancer 6.2 times the national average. In  
9       1990, that rate had increased to 10.8 times the na-  
10      tional average and in 2000 the rate of reported thy-  
11      roid cancer in Montana was 17.5 times the national  
12      average.

13          (7) When this data is age-adjusted, it is clear  
14      that the diagnosis rates for thyroid cancer in Mon-  
15      tana have increased dramatically over the past dec-  
16      ade, even relative to an increase in national rates.  
17      Between 1989 and 1993, the age-adjusted rate of  
18      thyroid cancer in Montana was 4.4 people per  
19      10,000 persons, compared to the national average of  
20      5.5 people per 10,000 persons. Between 1994-1998,  
21      that rate increased to 6.3 in Montana, but the na-  
22      tional average only increased to 6.5. Between 1999  
23      and 2003, that rate in Montana increased again to  
24      10.0, surpassing the national average of 7.6.

1           (8) Between 1989 and 2003, the national age-  
2       adjusted rate of thyroid cancer diagnosis increased  
3       by 38 percent. During that same period of time, the  
4       rate in Montana increased 127 percent.

5           (9) These increases in the thyroid cancer rate  
6       correspond with the expected delay for the mani-  
7       festation of thyroid cancer from exposure during the  
8       nuclear testing in the 1950s.

9           (10) The Radiation Exposure Compensation  
10      Act (42 U.S.C. 2210 note), enacted in 1990, estab-  
11      lishes in the Department of the Treasury the Radi-  
12      ation Exposure Compensation Trust Fund for claims  
13      for injuries and death due to exposure during cer-  
14      tain time periods to radiation from: (1) nuclear test-  
15      ing in Utah, Nevada, and Arizona; or (2) uranium  
16      mining in Colorado, New Mexico, Arizona, or Utah.

17          (11) None of the 5 counties with the highest I-  
18      131 exposure, which are located in Montana and  
19      Idaho, are covered under the Radiation Exposure  
20      Compensation Act . Only 3 of the 25 counties with  
21      the highest I-131 exposure are covered. No counties  
22      in Montana are currently covered by the Radiation  
23      Exposure Compensation Act. However, 3 counties in  
24      Nevada with dosage rates nearly equal to the na-  
25      tional average are covered.

1           (12) The Board on Radiation Effects Research  
2           at the National Academy of Sciences has conducted  
3           studies on the effects of this radiation exposure in  
4           all 50 States and found that the calculated absorbed  
5           dose to the thyroid of a person born in 1948 who  
6           resided for the entire period evaluated in Montana  
7           is 250 milligrays, higher than any of the counties in  
8           Utah currently eligible for compensation.

9           (13) Fallout emitted during the Government's  
10          above-ground nuclear tests in Nevada exposed indi-  
11          viduals who lived in the downwind affected area in  
12          Montana to radiation that is presumed to have gen-  
13          erated an excess of cancers among these individuals.

14          (14) The United States should recognize and  
15          assume responsibility for the harm done to these in-  
16          dividuals.

17          (15) The lives and health of innocent individ-  
18          uals who lived downwind from the Nevada tests, in  
19          the State of Montana, were involuntarily subjected  
20          to increased risk of injury and disease to serve the  
21          national security interests of the United States.

22          (b) PURPOSE.—It is the purpose of this Act to estab-  
23          lish a procedure to make partial restitution to individuals  
24          described in subsection (a) for the burdens they have  
25          borne for the Nation as a whole.

1 (c) APOLOGY.—Congress apologizes on behalf of the  
2 Nation to the individuals described in subsection (a) and  
3 their families for the hardships they have endured.

4 **SEC. 3. AMENDMENTS TO RECA.**

5 (a) COMPENSATION IN GENERAL.—Section 4(b)(1) of  
6 the Radiation Exposure Compensation Act (42 U.S.C.  
7 2210 note) is amended—

8 (1) in subparagraph (B), by striking “and” at  
9 the end; and

10 (2) by adding at the end the following:

11 “(D) in the State of Montana, the counties  
12 of Meagher, Broadwater, Beaverhead, Jeffer-  
13 son, Powell, Judith Basin, Madison, Fergus,  
14 Gallatin, Petroleum, Lewis and Clark, Blaine,  
15 Silver Bow, Chouteau, and Deer Lodge; and”.

16 (b) ADDITIONAL RELIEF.—Section 4 of the Radi-  
17 ation Exposure Compensation Act (42 U.S.C. 2210 note)  
18 is amended by adding at the end the following:

19 “(c) ADDITIONAL RELIEF.—

20 “(1) OTHER AREAS.—

21 “(A) IN GENERAL.—An individual who re-  
22 sided in a region of Montana not covered under  
23 subsection (b)(1)(D) during the time period de-  
24 scribed in subsection (a)(1)(A)(i) may apply for  
25 compensation under this Act.

1           “(B) PROCEDURE.—The National Cancer  
2           Institute, in collaboration with the Centers for  
3           Disease Control and Prevention, shall evaluate  
4           whether an individual submitting an application  
5           under subparagraph (A) is eligible for com-  
6           pensation under this Act on a case-by-case  
7           basis.

8           “(2) OTHER EXPENSES.—An individual who is  
9           eligible for compensation under subsection (b)(1)(D)  
10          or paragraph (1) shall also receive compensation  
11          from the Fund for the costs of screening, complica-  
12          tions of screening, follow-up referrals, work-up diag-  
13          nosis, and treatment related to the specific disease  
14          contracted by the individual.”.

15          (c) AUTHORIZATION OF APPROPRIATIONS.—Section  
16          3(c) of the Radiation Exposure Compensation Act (42  
17          U.S.C. 2210 note) is amended by adding at the end the  
18          following:

19               “(3) RECA AMENDMENTS OF 2005.—There are  
20               authorized to be appropriated to the Fund  
21               \$200,000,000 to carry out the Radiation Exposure  
22               Compensation Act Amendments of 2005. Any  
23               amounts appropriated pursuant to this paragraph  
24               are authorized to remain available until expended.  
25               Of the funds appropriated to carry out the Radi-

1        ation Exposure Compensation Act Amendments of  
2        2005, not less than 95 percent of the funds ex-  
3        pended shall be distributed directly to victims of ra-  
4        diation exposure.”.

5        **SEC. 4. EDUCATION PROGRAM.**

6        The Health Resources and Services Administration  
7        shall conduct an enhanced program of education and com-  
8        munication about the health risks posed by radiation expo-  
9        sure from fallout from United States nuclear-weapons  
10       testing.